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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,411	12/10/2001	Yoshitaka Mishima	SHC0163	8643

7590

12/05/2003

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 12/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/016,411

Applicant(s)

MISHIMA ET AL.

Examiner

C. Lynne Anderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Tanji et al. (5,304,159).

Tanji discloses a disposable undergarment, as shown in figure 1, having longitudinally opposite end regions and transversely opposite side regions. The garment further comprises a liquid impervious base sheet 12, a liquid absorbent panel 13, and a liquid pervious topsheet 11, as shown in figure 2. An elastically stretchable skin-facing sheet 14 is attached to the skin-facing side of the topsheet 11. The skin-facing sheet 14 comprises fixed regions on longitudinally opposite end regions, a longitudinally middle region, and a pair of transversely opposite side regions helping define leg-holes, as shown in figure 1. The topsheet 11 and skin-facing sheet 14 are substantially coextensive in the transverse direction, as shown in figure 1. The longitudinal central portion of the skin-facing sheet 14 has a width that is smaller than a width of the underlying central portion of the topsheet 11, as shown in figure 2. The basis weight and tensile strength of the skin-facing sheet 14 is higher in the transversely opposite side regions 18, than in remaining regions, since the skin-facing sheet is folded onto itself in regions 18, as shown in figure 2.

With respect to claim 2, the basis weight and tensile strength of the skin-facing sheet 14 is higher in the peripheral edge region 19 of the opening, since the skin-facing sheet is folded onto itself at regions 19, as shown in figure 2.

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With respect to claim 3, a bulging line 23 extends on the skin-facing sheet 14 in the longitudinal direction in a vicinity of the longitudinal center line, as shown in figure 1.

With respect to claim 4, the skin-facing sheet 14 is folded onto itself at transversely opposite side regions 18 and peripheral edge regions 19, as shown in figure 2.

With respect to claim 7, the transversely opposite side regions 18 lie inwardly of the transversely opposite side regions of the base sheet 12, as shown in figure 2.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tanji et al. (5,304,159) as applied to claim 1 above, and further in view of Mishima et al. (6,527,756).

Tanji discloses all aspects of the claimed invention with the exception of leak-barrier sheets. Mishima discloses a disposable undergarment comprising a pair of leak-barrier sheets 18, as shown in figure 6, extending in a longitudinal direction along transversely opposite side regions of the garment, fixed to a skin-facing sheet 7 and a liquid pervious topsheet 2. The leak-barrier sheets 18 prevent leakage while still allowing the garment to be breathable, as disclosed in column 6, lines 46-51.

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It would therefore be obvious to one of ordinary skill at the time of invention to construct the garment of Tanji with leak-barrier sheets, as taught by Mishima, to prevent leakage while still allowing the garment to be breathable.

Allowable Subject Matter

Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 22 September 2003 with respect to the rejection(s) of claim(s) 1-7 under 35 U.S.C. 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Tanji et al. (5,304,259).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3590.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

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December 1, 2003



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SUPERVISORY PATENT EXAMINER
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